IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 4066 of 2006

DATED: 09.11.2006

Between:

P.Lingaiah petitioner

And

APSRTC
Rep by its Vice Chairman & Managing Director,
Musheerabad, Hyderabad and another Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 4066 OF 2006

ORAL ORDER:

The present writ petition is filed questioning the proceedings dated 25.1.2006 in placing the petitioner in special grade with effect from 1.8.2001 instead of with effect from 1.8.1999 as illegal.

The petitioner is employed as Driver in the respondent corporation having joined the respondent corporation on 16.3.1986. He was removed from service by order dated 12.6.1990 for certain irregularities. The punishment of removal was modified by the Regional Manager by order dated 27.8.1991 and petitioner was reinstated into service treating the absence period as not on duty for all purposes of monetary benefits and seniority. Questioning the said order, petitioner raised an industrial dispute in I.D. No. 601 of 1993. The Labour Court passed an award dated 29.9.1994 holding that the petitioner is entitled to half salary for the period in which he has not worked from the date of suspension and later full back wages and that he is entitled to the increments, continuation of service, GPF and all other monetary benefits. Questioning the said award, the management filed a writ petition in W.P. No. 14280 of 1995 and the same was dismissed confirming the award of the labour court by order dated 12.12.2002. The petitioner was paid monetary benefits in terms of the

orders of the Labour Court in M.P. No. 33 of 1995 dated 10.2.1997. The petitioner claims that in terms of circular P D No.65/1989 dated 3.5.1989 he is entitled to special grade increment from the date of completion of 12 years service i.e.1.8.1999 and the respondents by order dated 22.11.2004 granted the special grade with effect from 1.8.2001 instead of from 1.8.1999. Questioning the order dated 22.11.2004, petitioner filed W.P. No. 23924 of 2005 and the same was disposed of by this Court by order 9.11.2005 directing the petitioner to make a representation to the first respondent. Thereafter, the representation filed by the petitioner was dismissed by order dated 25.1.2006 holding that the petitioner is not entitled to stagnation increment w.e.f. 1.8.1999. Hence, the present writ petition.

Heard the learned counsel for petitioners as also the learned Standing Counsel for respondent corporation.

Questioning the order dated 27.8.1991 in so far treating the absence period as not on duty for all purposes of monetary benefits and seniority, the petitioner raised an industrial dispute in I.D. No.601 of 1993 and the labour court on consideration of the matter, passed an award dated 29th September, 1994. The operative portion of the award reads as under:

> "……..Thus with these findings I passed an award holding the order of the Regional Manager in reinstating Sri P Lingaiah, Driver is justified but I hold the treating of suspension period as not on duty is not sustainable. However, the petitioner is entitled to half salary for period in which he has not worked from the date of suspension and later full back-wages. Further, petitioner is entitled to the increments continuation of service GPF and all other monetary benefits. The award is passed."

Thus, in terms of the award of the labour Court, the petitioner is entitled to the increments, continuation of service, GPF and all other

monetary benefits. The said award of the labour Court was confirmed by this Court by order dated 12th December, 2002 in W.P. No. 14280 of 1995 filed by the management for APSRTC. The orders in W.P. No. 14280 of 1995 have become final.

The respondent corporation issued instructions for grant of special grade on completion of 12 years of service vide Circular PD-65/1989 dated 3.5.1989. The condition Nos. 1 and 2 reads as under:

> 1. The employees in the categories of posts specified in Annexure-VI to the circular under reference 2nd cited who, have put in more than twelve (12) years of service in the same category of post shall be placed on to the corresponding scale as indicated in Appendix-A to this circular.
>
> 2. All service including the service put in under Regulation 17 or Regulation 30 (but not on casual basis) shall be counted for computing twelve (12) years of service in the same post.

The aforementioned condition in the circular only indicate that the employees who have put in more than twelve years of service in the same category of post shall be placed on the corresponding scale. There is no mention of active service in the circular. Therefore the impugned order dated 25-1-2006 rejecting the grant of increments to the petitioner on the ground that he was not in active service cannot sustain. Since the labour court while already reinstating the petitioner granted continuity of service which became final, the petitioner having regard to the circular

PD-65/1989 dated 3.5.1989 on completion of twelve years of service in the same post is entitled to increment from 1.8.1999.

For the foregoing reasons, the writ petition is allowed. No costs.

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N.V.RAMANA,J

DATE: 09.11. 2006

grk

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